

**State Board of Education
May 19, 2009
Item K**

Team: Commissioner's Office

Discussion Topic: School Choice

Alignment with Goals: Goal I, Objective A, Strategy 8

Background Information:

Following completion of the work of the Public School Choice Workgroup (see attached), and after review of a summary of its efforts, the State Board of Education voted, on January 18, 2005, to approve the attached draft public school choice legislation, and to instruct the Commissioner to forward it to the Legislature. It also voted to express its support for the principle of public school choice in the annual Act 150 report which it was required to submit on January 15, 2005. Since then, a number of different school choice proposals have been considered by the Legislature. To date, none has come to fruition. Also, the current work of the Education Transformation Policy Commission may result in a recommendation to the State Board regarding public school choice. The Board will want to hear from Commissioner Vilaseca on the topic.

Purpose of Discussion:

Provide the State Board with an opportunity to discuss its overall position on school choice, how it fits in with the Transformation initiative, and how school choice and governance restructuring are aligned. Following this initial discussion, and if the State Board expresses support for the subject of public school choice generally, a more focused discussion of the elements of public school choice (such as grade levels, financing and transportation) will occur at a subsequent State Board meeting (likely June or August 2009), as a part of the process of developing draft legislation for the 2010 legislative session.

Recommendation:

To be developed in the course of the discussion of this item.

Cost Implications:

Monetary Resources: To be determined

Staff Resources: to be determined

Staff Available: Commissioner Vilaseca, Mark Oettinger, Peter Thoms (Act 150)

State Board of Education
December 21, 2004
Item F

Team: Commissioner's Office

Discussion Topic: Public School Choice

Alignment with Goals: Goal I, Objective A, Strategy 8

Background Information:

See attached draft summary of Public School Choice workgroup, following the Board's discussion at its November 16 meeting

Purpose of Discussion:

Assist the State Board in the development of a public school choice legislative proposal.

Further discussion on the following items from the 11/16/04 SBE meeting:

1. Funding
2. Cap on the number of students for 1st 3 years
3. Transportation

Recommendation:

That any public school choice proposal developed by the State Board of Education be incorporated into the Act 150 Report that is due to be submitted to the Legislature by January 15, 2005.

Cost Implications:

Monetary Resources: To be determined based on the content of the proposal
Staff Resources: As needed.

Staff Available: Commissioner Cate, Deputy Commissioner Pinckney and Bill Reedy

Public School Choice Workgroup Summary

DRAFT – 12-21-04

At the January 20, 2004 State Board of Education meeting, the Board approved the following motion: "The State Board supports the general concept of public school choice. We encourage the legislature to ensure that development of any new system of enhanced public school choice address the needs of all students. The State Board plans to be an active participant in this process." After the legislative session the Commissioner recommended and the Board approved the formation of a Public School Choice Workgroup. The Commissioner gave the workgroup the following charge: "To develop a list of options and to provide input regarding those options for the State Board members to consider as they develop their public school choice proposal." All workgroup members were active participants in the discussion.

The workgroup included the following:

- Tom James -State Board of Education member
- Rick Manahan - State Board of Education member
- Michael Metcalf - Former state senator and current Hazen Union teacher
- Tim Volk - Vermont Business Roundtable
- Pauline Manning - Parent
- Peter Herman - School board member
- Jeff Francis - Vermont Superintendents Association
- Joel Cook - Vermont NEA
- Ray Pelligrini - Vermont Principals' Association

The Commissioner served as a participant-facilitator for the workgroup and other DOE staff attended the meetings to provide technical assistance.

The workgroup met five times between August 31 and October 26, 2004. At its first meeting, they developed the following list of objectives. It is important to note that this list is neither all inclusive nor necessarily supported by all of the members. However, it did provide one set of lenses through which the workgroup analyzed the various options.

- Optimum outcomes for all children
- No decrease in the quality of education for any children
- No unfunded mandates to local school districts
- Expand educational opportunities for all students

What follows is a brief summary, developed by the Commissioner, of choice proposal elements that were discussed by the workgroup. This summary is intended to provide the State Board with supporting information as Board members first discuss and then develop a public school choice proposal.

Grade Levels The workgroup discussed the appropriateness for public school choice at different grade levels. The options include K-12, 7-12, and 9-12. It is important to note that Vermont statutes define high school as grades 7 through 12. Some workgroup members raised concerns about younger students having long commutes to school. Others felt that students might be more open to choice at younger ages.

Regional vs. Statewide Choice Most workgroup members ultimately did not want to limit the allowable geographic range of choice but some did suggest an interim regional approach that could be the next step beyond the current process set out in Act 150. The word *regional* in this context could mean supervisory unions, counties or other defined regions.

Funding The workgroup generally agreed that funding would be the most difficult element of school choice. The movement of one student to another district is unlikely to result in a reduction in cost equivalent to the average per student cost in the sending district. Nor are the operating costs of the receiving school district likely to rise by this amount. School districts have fixed and variable costs and the marginal cost of one, five or ten students varies in each situation. The cost of a student exercising choice varies based on receiving school district capacity and class size, sending school class size and the per student costs in both school districts. The workgroup identified the following options:

- Funds equivalent to the statewide average cost per student follows the student
- Split the equivalent of the statewide average cost between the sending and receiving district according to a breakdown of fixed and variable costs or by some other formula
- State pays some additional sum to the receiving school district.

Transportation The workgroup discussed whether transportation should be provided for students exercising choice and, if so, who should provide and/or pay for it. Current statutes do not specifically require school districts to provide transportation for students in any situation other than for some special education students. In some cases school districts that do not operate schools provide transportation to receiving schools but others do not. Some receiving schools also provide transportation to students from other districts but they are not required to do so either. In many cases, parents of students that attend school outside their school district of residence are responsible for the transportation of their children to sending schools. If transportation is to be paid for by public funds, the costs could rise substantially if several students are transported long distances to schools outside of their regions of residence. Conversely, if parents provide the transportation, the children of higher income parents would be less constrained in their geographic choices than would be the children of lower income parents. The workgroup identified the following options regarding transportation:

- Leave transportation as a parental obligation
- Require the sending district to provide transportation
- Require the receiving district to provide transportation
- State pays for the cost of transportation

Special Education The workgroup consulted with special education staff from the Department and the field and representatives of advocacy groups regarding the effect of public school choice on the provision of special education services. The primary concern of all parties in the discussion was that we ensure that special education students exercising choice have ready access to all of the services required by their IEPs. The group also wanted to make sure that, because two school districts would bear some responsibility for the special education services provided to each student, the IEP process not take any longer than absolutely necessary. In an effort to avoid confusion and to ensure compliance with federal law, the workgroup generally agreed that the district of residence (sending district) should be responsible for ensuring the free and appropriate public education in the least restrictive environment. This would not prevent the sending school from contracting with the receiving school for these special education services. The receiving school would also be involved with the IEP process even though the sending school would still be responsible for this process.

The special education staff and advocates with whom the workgroup consulted also advocated strongly for a process that would ensure that special education students have the same access to public school choice as would regular education students. The workgroup discussed the specialized transportation needs of special education students, which are often part of IEP requirements. The group noted that a public school choice proposal might well address the transportation needs of special education students differently than it would for the rest of the student population.

Generally, the options for provision of special education services are to make either the sending or receiving school responsible. However, IDEA does require some degree of responsibility on the part of the district of residence.

Draft Proposal

The workgroup decided to try to develop a general consensus about elements of a draft proposal for public school choice. It is important to note that this proposal was not voted on and should not be thought to represent the position of any individual workgroup member or the organizations that they represent. However, the overall concept did have general support from most of the members. The proposal is as follows:

- Statewide public school choice for grades K through 12 **(SBE Consensus)**
- State payments to the receiving schools that have a net increase in students as a result of public school choice. If a school district sends 10 students and receives 15 students, the district would receive a stipend for five students. Because every choice situation will be different, it is very difficult to determine an accurate estimate of the marginal cost of accepting additional students in individual districts. The group discussed a possible stipend of \$2500 but did not conclude or recommend a specific amount. The rationale for the added cost of a stipend is that choice would be viewed as an enhancement of the existing educational program with an associated cost. Under this proposal, sending schools would continue to claim the ADM for students that reside in their district and attend school elsewhere as a result of public school choice. **(Differing views by Board members - -see below)**
- Participation in the public school choice process would be capped for each school for the first three years, perhaps at 2-3 percent of the school enrollment. If more students than the cap allowed wanted to exercise public school choice, a lottery would be used to determine the outcome. **(Differing views by Board members - -see below)**
- School boards would have the to determine the capacity of their schools to accept choice students. If demand exceeded supply, a lottery would be used to determine which students would be accepted. **(SBE consensus)**
- Students would be assured that, once accepted, they could remain at the school of their choice for the duration of their school career, barring disciplinary issues. **(SBE consensus)**
- The group is somewhat divided on the issue of transportation. Several members favored leaving transportation as a parental responsibility unless schools volunteered to provide

it. There was also some support for state reimbursement of transportation costs.
(Differing views by Board members)

- The district of residence (sending school) would be responsible for ensuring the provision of special education services. (SBE consensus)

Board feedback 11-16-04

RM - Cost element, may be more significant than anticipated, predictability concern with cap

CR - should be cost neutral, shared ADM, no cap

SS - repeat CR

LCo - comfortable with draft addressing said issues

DMcD - Still has questions, view proposed dollar flow as start-up costs, then move on from that;
if schools lose many students and retain dollars, need to do something with that money

TJ - should have stipend, not wedded to amount; same on cap - have to make choice most palatable and not threatening, need to start somewhere and it may evolve

LCa - no on cap; transportation should be offered if going to offer choice, should offer full access

MC - same as CR

Three issues for further discussion:

- 1) **Cost issue**
- 2) **Cap on the number of students for 1st 3 years;**
- 3) **Transportation**

State Board of Education
January 18, 2005
Item __D__

DEPARTMENT OF EDUCATION
Montpelier, Vermont

TEAM: Commissioner

ITEM: Will the State Board vote to approve the attached draft public school choice legislation and direct the Commissioner to forward it to the Legislature for its consideration?

RECOMMENDED ACTION: That the State Board vote to approve the attached draft public school choice legislation and direct the Commissioner to forward it to the Legislature for its consideration.

STATUTORY AUTHORITY: Act 150 of the 2000 General Assembly

BACKGROUND INFORMATION: The State Board considered the recommendations of the Public School Choice Workgroup and, by way of a series of straw polls, developed a proposal and directed the Commissioner to bring back draft legislation. The State Board agreed upon the following components to be incorporated into the draft legislation:

- A program of public school choice throughout the State and at all grade levels kindergarten through grade 12.
- In the first year of implementation, the sending school would retain two-thirds of the ADM and the receiving school would be able to claim one-third ADM for each student. In the second year, the sending and receiving schools would share the ADM equally. In the third year and thereafter, the receiving school would claim the entire ADM for each student.
- There would be no cap on the number of students eligible to participate in the program.
- Transportation would be the responsibility of the parents unless school districts decided to provide it.
- The capacity of schools to receive choice students would be decided by the school boards of the receiving schools.
- Special education and the cost thereof would remain the responsibility of the district of residence.

After State Board action on the draft legislation, the Commissioner will transmit the proposal to the Legislature as a follow-up attachment to the required Act 150 report, which will be transmitted to the Legislature on January 14th.

STAFF AVAILABLE: Commissioner Cate and Bill Reedy

DRAFT January 2005

Introduced by

Referred to Committee on

Date:

Subject: Education; public school choice

Statement of purpose:

AN ACT RELATING TO PUBLIC SCHOOL CHOICE

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. PURPOSE

It is the purpose of this act to establish a system in Vermont to enable parents to enroll their children in the public schools which best suit their individual needs while providing a gradual transition to the new system.

Sec. 2. 16 V.S.A. § 821 is amended to read:

§ 821. School district to maintain public elementary schools or pay tuition

(a) Elementary school. Each school district shall provide, furnish, and maintain one or more approved schools within the district in which elementary education for its pupils is provided unless:

(1) The electorate authorizes the school board to provide for the elementary education of the pupils residing in the district by paying tuition in accordance with law to public elementary schools in one or more school districts.

(2) The school district is organized to provide only high school education for its pupils.

(3) Otherwise provided for by the general assembly.

(b) Kindergarten program. Each school district shall provide public kindergarten education within the district. However, a school district may pay tuition for the kindergarten education of its pupils:

- (1) at one or more public schools under subdivision (a)(1) of this section; or
- (2) if the electorate authorizes the school board to pay tuition to one or more independent schools approved by the state board, but only if the school district did not operate a kindergarten on September 1, 1984, and has not done so afterward.

~~(e) Notwithstanding subsection (a) of this section, a school board without previous authorization by the electorate may pay tuition for elementary pupils who reside near a public elementary school in an adjacent district upon request of the pupil's parent or guardian, if in the board's judgment the pupil's education can be more conveniently furnished there. The board's decision shall be final in regard to the institution the pupil may attend.~~

(d) Notwithstanding subsection (a) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for elementary pupils at approved independent nonresidential elementary schools upon request of a pupil's parent or guardian, if in the board's judgment the pupil's educational interests can be better served there. The board's decision shall be final in regard to the institution the pupil may attend.

Sec. 3. 16 V.S.A. § 822(c) is amended to read:

(c) The school board may both maintain a high school and furnish high school education by paying tuition to ~~a public school as in the judgment of the board may best serve the interests of the pupils, or to~~ an approved independent school if the board judges that a pupil has unique educational needs that cannot be served within the district or at a nearby public school. Its judgment shall be final ~~in regard to the institution the pupils may attend at public cost.~~

Sec. 4. 16 V.S.A. § 827 is amended to read:

§ 827. DESIGNATION OF AN INDEPENDENT HIGH SCHOOL AS THE

PUBLIC HIGH SCHOOL OF A SCHOOL DISTRICT

(a) A school district not maintaining an approved public high school may vote on such terms or conditions as it deems appropriate, to designate an approved independent school as the public high school of the district.

(b) When the board of trustees of such school votes to accept this designation, the school board of the designating school district, on behalf of its resident high school students, shall be regarded as a public school for tuition purposes and the school district shall pay tuition to the school only, until such time as the school district or the board of trustees of the school votes to rescind the designation.

(c) ~~A parent or guardian who is dissatisfied with the instruction provided at the school or who cannot obtain for his child the kind of course or instruction desired there, or whose child can be better accommodated in an approved high school nearer his home, may request the school board to pay tuition to another approved high school~~ pay to the designated school the full tuition charged until such time as the school district or the board of trustees of the school votes to rescind the designation. However, students in the school district may attend, and the school board of the designating school district shall pay tuition to, any Vermont public high school.

(~~d~~c) The school board may pay tuition to another approved independent high school as requested by a parent or guardian if in its judgment that will best serve the interests of the pupil. Its decision shall be final in regard to ~~the institution the pupil may attend~~ requests made under this subsection.

Sec. 5. 16 V.S.A. §1093 is amended to read:

§ 1093. NONRESIDENT PUPILS

The board may receive into the schools under its charge ~~nonresident~~ pupils from Vermont school districts not maintaining a school or pupils from outside Vermont under such terms and restrictions as it deems best and money

received for the instruction of such pupils shall be paid into the school fund of the district. The board may also receive into the schools under its charge pupils transferring from other school districts pursuant to the terms and conditions of section 1096 of this title.

Sec. 6. 16 V.S.A. § 1096 is added to read:

§ 1096. PARENTAL CHOICE

(a) Subject to the provisions of this section, a Vermont resident who is a parent or guardian of a legal pupil in a school district that maintains a school in the pupil's grade level may choose to enroll the pupil in any Vermont public school in that same grade level. If a pupil reaches the age of majority or is emancipated in accordance with law, the rights accorded to parents or guardians under this section transfer to the pupil.

(b) Each Vermont public school shall accept nonresident pupils under this section on a nondiscriminatory basis, and may not charge tuition to the pupil or the pupil's parents or guardian. Prior to accepting applications under this section, each public school board shall determine its capacity to accept pupils beyond the capacity necessary to meet the needs of its resident pupils, and shall annually review and redefine its capacity limits. The commissioner shall develop guidelines for consideration by public school boards in defining capacity limits. Guidelines may include limits based on the capacity of the \ program, class, grade, school building or measurable adverse financial impact. Guidelines shall allow a school to accept nonresident tuition-paying pupils who are not applying under this section prior to determining whether a school has the capacity to accept additional nonresident pupils under this section. If the school district then receives applications in excess of its defined capacity limits, it shall devise a nondiscriminatory lottery system for determining which pupils will be accepted.

(c) With respect to pupils eligible for special education for whom parents or legal

guardians have exercised choice options under this section, the school district of residence shall be the local education agency responsible for establishing and carrying out the individualized education plan, and for paying special education costs. However, only actual special education costs or actual proportionate costs attributable to the pupil may be charged. The state board shall apply rules adopted under subsection 826(d) of this title to these charges.

(d) This section does not apply to parents and pupils residing in a school district which does not maintain a school that offers the grade level the pupil needs to attend, and which is therefore subject to the tuition payment provisions of chapter 21 of this title.

(e) A school is not required to provide services to a pupil during a period of suspension or expulsion imposed in another school district.

(f) Nothing herein shall be construed to require a receiving school district to provide transportation to nonresident pupils attending the district's schools under this section.

(g) An enrolled nonresident pupil shall be permitted to remain enrolled in the nonresident school without renewed applications in subsequent years unless one of the following occurs:

(1) The pupil graduates.

(2) The pupil is no longer a Vermont resident.

(3) The pupil is expelled from school in accordance with adopted school policy.

(h) The state board of education shall adopt rules as necessary to implement this section, including rules which describe procedures for applying for enrollment in a school by the parents or guardian of a nonresident pupil which, at a minimum, shall include rules as follows:

(1) Acceptance of applications through March 1 of the school year preceding the

school year for which the pupil is applying.

(2) Notification to the pupil of acceptance or rejection of the application by April 1 of the school year preceding the school year for which the pupil is applying.

(3) A requirement that the pupil notify the sending and receiving schools of a decision to enter the receiving school district by April 15 of the school year preceding the school year for which the pupil has applied. Following notification, the pupil may enter a school other than the receiving school only if the pupil, receiving school, and the school to which the pupil wishes to transfer agree. However, if the pupil becomes a resident of a different school district, the pupil may enroll in the school of the new district of residence at the time of the move.

(4) If a pupil enrolled in a public school in a receiving district notifies the public school of the school district of residence by July 15 of the intent to return to that school the following school year, the pupil shall be permitted to return to the school in the district of residence without acquiring agreement of the receiving district and the sending district.

Sec. 7. 16 V.S.A. § 4001 is amended to read as follows:

§ 4001. DEFINITIONS

For the purpose of this chapter:

(1) "Average daily membership" of a school district in any year means:

(A) the full-time equivalent enrollment of pupils, as defined by the state board by rule, who are:

(i) legal residents of the district attending a school owned and operated by the district, attending a public school outside the district under an interdistrict agreement, or for whom the district pays union school assessment or tuition to one or more approved independent schools or public schools outside the district during the annual census period- or

(ii) nonresident pupils attending a school owned and operated by a school district pursuant to section 1096 of this title.

The census period consists of the first 40 days of the school year in which school is actually in session; and

(B) the full-time equivalent enrollment in the year between the end of the last census period and the end of the current census period, of any state-placed students as defined in subdivision 11(a)(28) of this title. The full-time equivalent enrollment of state-placed students attending a union school shall be divided among the member districts in the same proportions that the members divide assessment. A school district which provides for the education of its students by paying tuition to an approved independent school or public school outside the district shall not count a state-placed student for whom it is paying tuition for purposes of determining average daily membership. A school district which is receiving the full amount, as defined by the state board by rule, of the student's education costs under subsection 2950(a) of this title, shall not count the student for purposes of determining average daily membership. A state-placed student who is counted in average daily membership shall be counted as a student for the purposes of determining weighted student count.

Sec. 8. TRANSITIONAL PROVISIONS

Notwithstanding 16 V.S.A. §4001(1)(A):

(a) in the 2006-2007 school year, a sending school district under 16 V.S.A. §1096 shall count each of its resident students enrolled in a receiving district under 16 V.S.A. §1096 as two-thirds of an average daily membership and the receiving district shall count each nonresident enrolled student as one-third of an average daily membership; and

(b) in the 2007-2008 school year, a sending district under 16 V.S.A. §1096 shall count each of its resident students enrolled in a receiving district under 16 V.S.A. §1096 as one-half of an average daily membership and the receiving district shall count each nonresident enrolled student as one-half of an average daily membership.

Sec. 9. EFFECTIVE DATE; REPEAL

(a) This act shall take effect for school year 2006-2007 except for 16 V.S.A. §1096(h) which shall take effect January 1, 2006.

(c) No. 150 of the Acts of the 1999 Adj. Sess. (2000), relating to public school choice in grades 9-12, is repealed on June 30, 2006.